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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,166	04/04/2001	Yoshihisa Gonno	7217/64310	4029

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EXAMINER

PEREZ DAPLE, AARON C

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 11/16/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,166

Applicant(s)

GONNO ET AL.

Examiner

Aaron C Perez-Daple

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Action is in response to Application filed 4/4/01 and preliminary Amendment filed 2/15/02.
2. Claims 1-13 are presented for examination.
3. This Action is non-Final.

Specification

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

5. **Claim 2** is objected to because of the following informalities: line 6 recites "sate" where it should recite --state--. Appropriate correction is required.
6. **Claim 5** is objected to because of the following informalities: line 3 recites "a the" where it should recite --a--. Appropriate correction is required.
7. **Claim 9** is objected to because it is identical to claim 7. The claim should be amended or cancelled accordingly.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. **Claim 4** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, lines 5-6 of the claim recite, "wherein an automatically designated delivery resource is operated." It is not clear if the delivery resource is being claimed as being operated *on* or if it *performs* the operation. It is further unclear what type of operation is being performed. For the purpose of applying prior art, very little patentable weight will be given to this limitation of the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. **Claims 1-7 and 9-13** are rejected under 35 U.S.C. 102(e) as being anticipated by Kusaba et al. (US 6,510,556 B1) (hereinafter Kusaba).

12. As for claims 1 and 12, Kusaba discloses a managing apparatus for managing data necessary for providing a content, comprising:

reserving means for reserving a delivery resource for each content (scheduler 105, Figs. 2 & 7; col. 3, lines 10-27);

storing means for storing reserved delivery resource assignment information (schedule table 104, Figs. 2 & 7; col. 3, lines 10-27); and

transmitting means for transmitting the reserved delivery resource assignment information (satellite transmitting apparatus 112, Fig. 2; CATV transmitting apparatus 118, Fig. 7; col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

13. As for claims 2 and 13, Kusaba discloses a managing apparatus for managing data necessary for providing a content, comprising:

content list displaying means for displaying a list of contents that can be provided (personal computer 123, Figs. 2 & 7; Fig. 4B; col. 3, lines 48-65; col. 4, lines 7-56);

reservation state displaying means for displaying a reservation state of a delivery resource (personal computer 123, Figs. 2 & 7; Fig. 4C; col. 3, lines 48-65; col. 4, lines 7-56);

content selecting means for selecting a content to which a resource is assigned (personal computer 123, Figs. 2 & 7; col. 3, lines 48-65; col. 4, lines 7-56); and

operating means for assigning a delivery resource to the selected content (scheduler 105, Figs. 2 & 7; col. 5, lines 23-47).

14. As for claim 3, Kusaba discloses managing apparatus as set forth in claim 1 or 2, further comprising:

transmitting means for transmitting a content corresponding to a reserved delivery resource (CATV transmitting apparatus 118, Fig. 7; satellite transmitting apparatus 112, Fig. 2; col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

15. As for claim 4, Kusaba discloses managing apparatus as set forth in claim 1 or 2, further comprising:

automatic designating means for automatically designating a delivery resource, wherein an automatically designated delivery resource is operated (col. 5, lines 59-67).

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16. As for claim 5, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a delivery resource is assigned corresponding to a convenience of a content provider (col. 4, line 57 – col. 5, line 22).
17. As for claim 6, Kusaba discloses managing apparatus as set forth in claim 1 or 2, further comprising:

converting means for converting the format of each content corresponding to a reserved delivery resource (col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).
18. As for claims 7 and 9, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a transmission resource is reserved for each content, the transmission resource being composed of a limited transmission band and transmission time, and wherein each content is transmitted corresponding to the reserved information (col. 4, line 57 – col. 5, line 22; Figs. 4C & 4D).
19. As for claim 10, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a reservation state can be browsed from one or more distributed environments (Figs. 2 & 7; col. 4, lines 7-56).
20. As for claim 11, Kusaba discloses managing apparatus as set forth in claim 1 or 2, wherein a delivery resource can be reserved from one or more distributed environments (col. 4, line 57 – col. 5, line 22; Figs. 4C & 4D).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kusaba in view of King et al. (US 6,477,707 B1) (hereinafter King).
23. As for claim 8, Kusaba discloses a plurality of transmission paths (satellite, cable and internet; col. 8, line 58 – col. 9, line 13). However, Kusaba does not specifically disclose selecting a plurality of transmission paths. King teaches selecting a plurality of transmission paths (col. 12, lines 10-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kusaba by selecting a plurality of transmission paths in order to transmit a variety of media objects over a distributed network, as taught by Kusaba (col. 1, lines 45-50).

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 6,594,682 B2, note abstract and Fig. 3;

US 6,625,643 B1, note Fig. 1;

US 6,757,912 B1, note abstract;

US 6,216,173 B1, note teaches format conversion;

US 6,002,915, note abstract;

US 6,078,348, note abstract;

US 6,058,422, note protocol converter 52, Fig. 2.

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25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C Perez-Daple whose telephone number is (571) 272-3974. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 11/1/04

Aaron Perez-Daple

